

REMARKS

In the Office Action, the Examiner rejected claim 19 under 35 U.S.C. § 112, first paragraph; rejected claims 1, 9, 17, 19, 20, and 30-34 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,614,987 to Ismail ("*Ismail*") in view of U.S. Patent No. 6,029,176 to Cannon ("*Cannon*"); and rejected claim 27 under 35 U.S.C. § 103(a) as unpatentable over *Ismail* and *Cannon* in view of U.S. Patent No. 5,977,964 to Williams et al. ("*Williams*").

By this amendment, Applicants propose to amend claims 1, 9, 17, and 19.

I. The Rejection of Claim 19 under 35 U.S.C. § 112, first paragraph

The Final Office Action alleges that claim 19 lacks support in the specification (Office Action at pages 2-3). Applicants respectfully disagree. The Final Office Action alleges that Applicant's specification "does not describe the programs that the first viewer 'absolutely wishes to view'" (Final Office Action at page 2). Although Applicants respectfully disagree, Applicants note that the phrase "absolutely wishes to view" was deleted from claim 19 in the Amendment filed August 24, 2009.

Furthermore, amended claim 19 recites "[t]he server operational expenses collecting method according to claim 1, wherein the second electronic programming guide is reorganized based on an absolute viewing program group of programs input by first viewer" (emphasis added). The Final Office Action concedes that the specification supports recitations such as those in amended claim 19 (Final Office Action at pages 2-3). Accordingly, claim 19 is fully supported, and Applicants respectfully request the Examiner to withdraw the rejection under 35 U.S.C. § 112, first paragraph.

II. The Rejection of Claims 1, 9, 17, 19, 20, and 28-34 under 35 U.S.C. § 103(a)

Applicants respectfully traverse the rejection of claims 1, 9, 17, 19, 20, and 28-34 under 35 U.S.C. § 103(a).

Independent claim 1, for example, recites a server operational expenses collecting method, comprising, among other things, "selecting one of a plurality of varying threshold durations corresponding to the first program category, the threshold durations corresponding to the plurality of program categories" (emphasis added).

Ismail discloses a system for recording television programs for subsequent viewing by a user, including a preference determination module which categorizes television programs based on television preferences of a user (*Ismail*, abstract). *Ismail* also discloses preference agent that determines whether a user has viewed a given program for more than a predetermined minimum time threshold (*Ismail*, col. 10, line 63 to col. 11, line 2). This avoids updating the user's preferences for programs which are only viewed very quickly as the user sequences through multiple channels to determine which programs are currently being broadcast (*Ismail*, col. 11, lines 2-6). If the user views the program for a time that exceeds the minimum duration, *Ismail's* preference agent updates statistics for a program category (such as action, sitcom, etc.) for the program viewed by the user (*Ismail*, col. 11, lines 6-13).

Ismail also discloses that the duration threshold may be set by the user using a menu-driven system that prompts the user for the value of the duration threshold (*Ismail*, col. 11, lines 20-26). The Final Office Action alleges that this user-specified threshold corresponds to a "threshold duration particular to a first program category" (Final Office Action at page 4). This is incorrect. *Ismail* merely discloses that the user

can set the duration threshold, but does not disclose that the user can set the duration threshold for a particular category. Rather, when the user specifies a duration threshold, the duration threshold is used by *Ismail's* preference agent for all program categories (See *Ismail*, col. 10, line 63 to col. 11, line 26).

Further, to the extent that the passage cited above may refer to allegedly inherent features of *Ismail*, Applicants refer to MPEP § 2112 (IV), which states: "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art" (emphasis added). As discussed above, the Final Office Action alleges that *Ismail's* user-specified duration thresholds constitute thresholds "particular" to a program category (Final Office Action at page 4). However, this is not necessarily the case, at least because *Ismail* does not disclose that the user specifies a duration threshold for a particular category. Indeed, *Ismail* is silent as to any such duration thresholds corresponding to a particular category of program. Therefore, *Ismail* does not teach or suggest "selecting one of a plurality of varying threshold durations corresponding to the first program category, the threshold durations corresponding to the plurality of program categories," as recited by independent claim 1 (emphasis added).

Cannon fails to cure the deficiencies of *Ismail*. *Cannon* discloses a "method and apparatus for quickly and easily retrieving, manipulating and analyzing large quantities of computer-based data relevant to television-viewing consumers" (*Cannon*, abstract). The Final Office Action alleges that *Cannon* discloses "provid[ing] television viewing habit information to advertisers" (Final Office Action at pages 4-5). However, even

assuming this is the case (a position Applicants do not concede), *Cannon* still does not teach or suggest “selecting one of a plurality of varying threshold durations corresponding to the first program category,” the threshold durations corresponding to the plurality of program categories,” as recited by independent claim 1 (emphasis added). as recited by independent claim 1 (emphasis added).

Because the cited references fail to teach or suggest each and every claim element, no *prima facie* case of obviousness has been established with respect to claim 1. Independent claims 9 and 17 distinguish over *Ismail* and *Cannon* for at least similar reasons as claim 1. Claims 19, 20, and 28-34 depend from claim 1, and are allowable at least due to their dependence. Applicants therefore respectfully request the Examiner to withdraw the rejection of these claims under 35 U.S.C. § 103(a).

III. The Rejection of Claim 27 under 35 U.S.C. § 103(a)

Applicants respectfully traverse the rejection of claim 27 under 35 U.S.C. § 103(a) as unpatentable over *Ismail* and *Cannon* in view of *Williams*. Claim 27 depends from claim 1. As already discussed, *Ismail* and *Cannon* fail to teach or suggest certain features of claim 1.

Williams discloses a method and apparatus for automatically configuring a system based on a user's monitored system interaction (*Williams*, abstract). The Final Office Action alleges that *Williams* discloses “preferred programming available on a date and at a time selected by the viewer (Final Office Action at page 8). However, even assuming this is the case (a position Applicants do not concede), *Williams* still does not does not teach or suggest “selecting one of a plurality of varying threshold durations corresponding to the first program category,” the threshold durations corresponding to

the plurality of program categories," as recited by independent claim 1 (emphasis added).

For at least the reasons discussed above, no *prima facie* case of obviousness has been established with respect to claim 27, at least to its dependence from claim 1. Applicants therefore respectfully request the Examiner to withdraw the rejection of claim 27 under 35 U.S.C. § 103(a).

IV. Conclusion

Applicants respectfully request that the Examiner enter this Amendment under 37 C.F.R. § 1.116. Applicants submit that the proposed amendments to the claims would place the application in condition for allowance and do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner. In the alternative, the proposed amendments at least place the application in better form for appeal.

In view of the foregoing remarks, Applicants respectfully request reconsideration of the application and withdrawal of the rejections. The pending claims are in condition for allowance.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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